

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

**The Hon'ble Justice Soumitra Pal,
& The Hon'ble Dr. Subesh Kumar Das.**

Case No –OA-290 of 2018.

Beauty Biswas. –Vs- The State of West Bengal & Others.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>5 11.01.2019.</p>	<p>For the Applicant : Mr. Manujendra Narayan Roy, Mr. Gourav Halder, Advocates.</p> <p>For the Respondents : Mr. Goutam Pathak Banerjee, Advocate.</p> <p>For the Principal Accountant : Mr. Biswanath Mitra, General (A&E), West Bengal. (Departmental Representative).</p> <p>In this application Beauty Biswas - the applicant has prayed for a direction upon the respondent authorities to grant and disburse family pension, arrear family pension and other superannuation benefits. It appears that Binoy Krishna Biswas was an employee under the respondent authorities and had worked as Police Driver, Grade -I. He expired on 5th February, 2016 while in service. Be it mentioned that the first wife of the deceased employee had expired on 18th October, 2006 and out of the first wedlock two sons were born and amongst them one had expired. It appears from the marriage certificate appearing at page 10 of the written reply filed by the State that on 10th April, 2008 Binoy Krishna Biswas had married the applicant with effect from 2nd April, 1995. It has also been mentioned in the said application that a daughter Bristi Biswas was born on 24th June, 1999. It also appears that while Binoy</p>	

ORDER SHEETBeauty Biswas.
.....**Vs.**The State of West Bengal & Ors.
.....

Form No.

Case No. OA-290 of 2018.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>Krishna Biswas was alive, he had filed an application before the Superintendent of Police, North 24 Parganas to enter the name of his second wife Beauty Biswas in lieu of Itika Biswas, first wife as evident from page 9 of the reply. Relying on the judgment passed in Sobha Hymavathi Devi -Vs- Setti Gangadhara Swamy & Ors. : (2005)2 SCC 244, particularly paragraph 6 thereof, it is submitted by Mr. Manujendra Narayan Roy, learned advocate for the applicant that assuming the applicant had cohabitated with Binoy Krishna Biswas from 1995 till the death of the first wife, in view of the marriage certificate and in view of the facts and circumstances and in view of the principles of law laid down by the Supreme Court, the second marriage is valid after the death of the first wife.</p> <p>Mr. Goutam Pathak Banerjee, learned advocate appearing on behalf of the state respondents relying on the reply submits that it is evident from the marriage certificate that the Binoy Krishna Biswas had married Beauty Biswas, the second wife with effect from 2nd April, 1995 that is during the subsistence of the first marriage. The same issue was not in question in Sobha Hymavathi Devi (supra). Moreover from the said certificate that out of the said wedlock it is evident that</p>	

ORDER SHEETBeauty Biswas.
.....

Form No.

Vs.**The State of West Bengal & Ors.**
.....Case No. OA-290 of 2018.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
Sourav	<p>Bristi Biswas a daughter was born on 24th June, 1999. Hence, according to him the applicant is not entitled to the reliefs as prayed for.</p> <p>Mr. Biswanath Mitra, Departmental Representative appearing on behalf of the Principal Accountant General (A&E), West Bengal adopts with the submission of Mr. Banerjee.</p> <p>Heard learned advocates for the parties. There is no dispute that the first wife of Binoy Krishna Biswas had expired on 18th October, 2006. It appears from the marriage certificate dated 10th April, 2008 that Binoy Krishna Biswas had married the applicant "with effect from 02.04.1995", that is during the subsistence of the first marriage and after the marriage Bristi Biswas was born on 24th June, 1999. The judgment in Sobha Hymavathi Devi (supra) is not applicable as facts therein are different. The submission on behalf of the applicant to accept the marriage of the applicant after the death of the first wife cannot be accepted. In view of the peculiar facts of the present case, no order can be passed in this application. Therefore, the application is dismissed.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p>	<p>(SOUMITRA PAL) CHAIRMAN</p>